



## State of Idaho

# DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098  
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: [www.idwr.state.id.us](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

September 29, 2004

David Stoecklein  
Wild Horse Partners LLC  
PO Box 856  
Ketchum, ID 83340

RECEIVED

OCT 04 2004

Department of Water Resources  
Eastern Region

Re: Consent Order and Agreement  
Notice of Violation Dated June 3, 2004

Dear Mr. Stoecklein,

I am in receipt of the Consent Order and Agreement that you executed on September 20, 2004, as well as civil penalty that you paid regarding the Notice of Violation dated June 3, 2004. Please find attached a copy of the agreement that I have executed on behalf of the Idaho Department of Water Resources. The Department appreciates your continued cooperation in this matter.

Please contact me directly at 208-327-7864 if you have any further concerns or questions regarding this matter.

Respectfully,

Tim Luke  
Water Distribution Section

Attachment: Consent Order and Agreement

cc: IDWR Eastern Region

**BEFORE THE DEPARTMENT OF WATER RESOURCES**  
**OF THE STATE OF IDAHO**  
**CONSENT ORDER AND AGREEMENT**

RECEIVED  
SEP 27 2004  
DEPARTMENT OF  
WATER RESOURCES

In the matter of Notice of Violation and Cease and Desist Order dated June 3, 2004, issued to Wildhorse Partners LLC, pursuant to Section 42-1701B, Idaho Code.

**Findings of Fact**

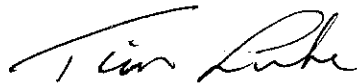
- 1) Wildhorse Partners LLC (Wildhorse) is the owner of property and two ditches that divert water from Warm Springs Creek at a diversion structure located in the NWNE of Section 35, Township 8 North, Range 22 East, Custer County. The Idaho Department of Water Resources (Department) issued a Notice of Violation to Wildhorse on June 3, 2004 for the diversion of winter stockwater without a valid water right at one of the ditches located above, and for failure to install proper measuring devices and lockable headgates on both ditches used at this diversion location. The Department had issued orders requiring installation of measuring devices and headgates to water users on Warm Springs Creek in April of 2000. Wildhorse had been reminded of these measuring device and headgate requirements several times by Department correspondence in 2003.
- 2) Wildhorse requested a compliance conference with Department representatives pursuant to the June 3, 2004 Notice of Violation. During the compliance conference held on June 29, 2004, between the Department and Wildhorse, Wildhorse acknowledged that it had diverted water for winter stock use at this diversion in November of 2003. Wildhorse did not dispute that water may have been diverted at this same location in February and April of 2004, but neither Wildhorse nor Wildhorse's lessee diverted water at this time, or made any physical changes or adjustments to the headgates after November of 2003. Wildhorse stated that it was unaware that there were no valid water rights for winter stockwater use at this diversion location.
- 3) During the June 29<sup>th</sup> compliance conference, Wildhorse also acknowledged that it was not in compliance at this diversion location with prior Department orders requiring adequate measuring devices and lockable headgates. Both Wildhorse and the Water District 34 watermaster advised the Department that measuring devices and lockable headgates had been installed at the diversion ditches prior to the June 29<sup>th</sup> compliance conference. A site visit of the diversion was conducted on June 29, 2004 by IDWR. IDWR confirmed that adequate measuring devices and lockable controlling gates had been installed at this diversion location.

The Department held a compliance conference with Wildhorse on June 29, 2004. It is hereby ordered and agreed that:

### **Terms of Agreement**

- 1) Wildhorse agrees to cease and desist from further diversion of water from Warm Springs Creek for winter stock water use at the diversion located in the NWNE of Section 35, Township 8 North, Range 22 East until valid water rights are obtained for this use at this diversion location and upon receiving authorization from the Department.
- 2) Wildhorse shall maintain adequate measuring devices and lockable headgates on the ditches conveying water from the Warm Springs Creek diversion structure located in the NWNE of Section 35, Township 8 North, Range 22 East.
- 3) Payment of an agreed civil penalty in the amount of \$500 is payable to the Idaho Department of Water Resources within thirty days (30) days of the execution of this agreement for the violation identified in the Notice of Violation dated June 3, 2004.
- 4) The Department will request the Water District 34 watermaster to immediately install and maintain locks on the headgates at the two ditches located in the NWNE of Section 35, Township 8 North, Range 22 East.
- 5) The Department suspends payment of \$9,500 of the civil penalty proposed by the Notice of Violation dated June 3, 2004.
- 6) This agreement does not limit the Department or the Watermaster of Water District No. 34 to seek future compliance or regulation of said water use for other issues not directly related to the unauthorized uses that occurred this year.

Dated this 29<sup>th</sup> day of September, 2004.

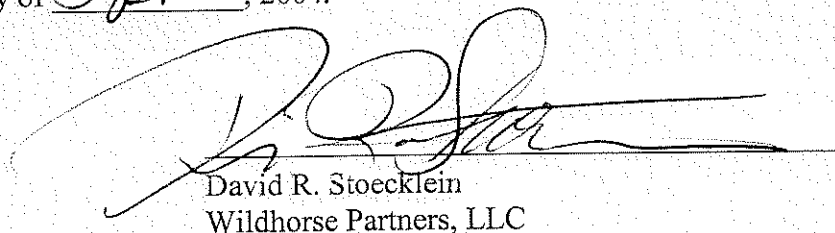


Tim Luke, Manager  
Water Distribution Section  
Idaho Department of Water Resources

## CONSENT

Respondent Wildhorse Partners, LLC, acknowledges, in general, the facts set forth during the conference and accepts fully the terms and conditions of this Order. These terms shall become effective upon execution by the parties. Respondent waives any right to contest this Order and consents to the issue hereof.

Signed this 20 day of Sept, 2004.



David R. Stoecklein  
Wildhorse Partners, LLC